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United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
MIGUEL ZUNIGA ARTEAGA,  
ARMANDO MARTINEZ,  
TERRY WHITED,  
MIGUEL ANGEL SANCHEZ-MEZA,  
JUAN VIZUETT-RESENDIZ, and  
VINCENTE SALVADOR ARENAS-GARCIA,  
  
Defendants.

CASE NO. 1:20-CR-00212-DAD-BAM

STIPULATION REGARDING EXCLUDABLE  
TIME PERIODS UNDER SPEEDY TRIAL ACT;  
ORDER

CURRENT DATE: March 23, 2022  
TIME: 1:00 p.m.  
COURT: Hon. Barbara A. McAuliffe

This case is set for status conference on March 23, 2022. On May 13, 2020, this Court issued General Order 618, which suspended all jury trials in the Eastern District of California until further notice, and allows district judges to continue all criminal matters. Under General Order 618, a judge “may exercise his or her authority to continue matters, excluding time under the Speedy Trial Act with reference to the court’s prior General Order 611 issued on March 17, 2020 . . . with additional findings to support the exclusion in the Judge’s discretion.” General Order 618, ¶ 6 (E.D. Cal. May 13, 2020). In addition, any judge “may order case-by-case exceptions” to General Order 618’s provisions “at the discretion of that Judge or upon the request of counsel, after consultation with counsel and the Clerk of the Court to the extent such an order will impact court staff and operations.” General Order 618, ¶ 7 (E.D. Cal. May 13, 2020). This and other General Orders were entered to address public health

1 concerns related to COVID-19 (for example, General Order 614—recently extended by General Order  
2 640).

3 Although the General Orders address the district-wide health concern, the Supreme Court has  
4 emphasized that the Speedy Trial Act’s end-of-justice provision “counteract[s] substantive  
5 openendedness with procedural strictness,” “demand[ing] on-the-record findings” in a particular case.  
6 *Zedner v. United States*, 547 U.S. 489, 509 (2006). “[W]ithout on-the-record findings, there can be no  
7 exclusion under” § 3161(h)(7)(A). *Id.* at 507. Moreover, any such failure cannot be harmless. *Id.* at  
8 509; *see also United States v. Ramirez-Cortez*, 213 F.3d 1149, 1153 (9th Cir. 2000) (explaining that a  
9 judge ordering an ends-of-justice continuance must set forth explicit findings on the record “either orally  
10 or in writing”).

11 Based on the plain text of the Speedy Trial Act—which *Zedner* emphasizes as both mandatory  
12 and inexcusable—General Orders 611, 612, and 617 require specific supplementation. Ends-of-justice  
13 continuances are excludable only if “the judge granted such continuance on the basis of his findings that  
14 the ends of justice served by taking such action outweigh the best interest of the public and the  
15 defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). Moreover, no such period is excludable unless  
16 “the court sets forth, in the record of the case, either orally or in writing, its reason or finding that the  
17 ends of justice served by the granting of such continuance outweigh the best interests of the public and  
18 the defendant in a speedy trial.” *Id.*

19 The General Orders exclude delay in the “ends of justice.” 18 U.S.C. § 3161(h)(7) (Local Code  
20 T4). Although the Speedy Trial Act does not directly address continuances stemming from pandemics,  
21 natural disasters, or other emergencies, this Court has discretion to order a continuance in such  
22 circumstances. For example, the Ninth Circuit affirmed a two-week ends-of-justice continuance  
23 following Mt. St. Helens’ eruption. *Furlow v. United States*, 644 F.2d 764 (9th Cir. 1981). The court  
24 recognized that the eruption made it impossible for the trial to proceed. *Id.* at 767-68; *see also United*  
25 *States v. Correa*, 182 F. Supp. 326, 329 (S.D.N.Y. 2001) (citing *Furlow* to exclude time following the  
26 September 11, 2001 terrorist attacks and the resultant public emergency). The coronavirus is posing a  
27 similar, albeit more enduring, barrier to the prompt proceedings mandated by the statutory rules.

28 In light of the societal context created by the foregoing, this Court should consider the following

case-specific facts in finding excludable delay appropriate in this particular case under the ends-of-justice exception, § 3161(h)(7) (Local Code T4).<sup>1</sup> If continued, this Court should designate a new date for the status conference. *United States v. Lewis*, 611 F.3d 1172, 1176 (9th Cir. 2010) (noting any pretrial continuance must be “specifically limited in time”).

### STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant MIGUEL ZUNIGA ARTEAGA, by and through defendant’s counsel of record, Nicholas Reyes, defendant ARMANDO MARTINEZ, by and through defendant’s counsel of record, Caroline McCreary, defendant MIGUEL ANGEL SANCHEZ-MEZA, by and through defendant’s counsel of record, Richard A. Beshwate, JUAN VIZUETT-RESENDIZ, by and through defendant’s counsel of record, Monica Bermudez, and VINCENTE SALVADOR ARENAS-GARCIA, by and through defendant’s counsel of record, Harry M. Drandell, seek a continuance of the current status conference to August 10, 2022 and hereby stipulate as follows:

1. By previous order, this matter was set for status on March 23, 2022.
2. By this stipulation, defendants now move to continue the status conference until August 10, 2022, and to exclude time between March 23, 2022, and August 10, 2022, under Local Codes T2 and T4.
3. The parties agree and stipulate, and request that the Court find the following:
  - a) The government has represented that the discovery associated with this case includes over 15,000 pages of Bates stamped discovery and several months of wiretap recordings. All of this discovery has been either produced directly to counsel and/or made available for inspection and copying.
  - b) Counsel for defendants desire additional time to consult with their clients, to review the current charges, to conduct investigation and research related to the charges, to review and copy discovery for this matter, to discuss potential resolutions with their clients, to prepare pretrial motions, and to otherwise prepare for trial.

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<sup>1</sup> The parties note that General Order 612 acknowledges that a district judge may make “additional findings to support the exclusion” at the judge’s discretion. General Order 612, ¶ 5 (E.D. Cal. March 18, 2020).

1 c) Counsel for defendants believe that failure to grant the above-requested  
2 continuance would deny them the reasonable time necessary for effective preparation, taking into  
3 account the exercise of due diligence.

4 d) The government does not object to the continuance.

5 e) Additionally, given the voluminous discovery and the fact that this case involved  
6 a wiretap investigation, it is so complex that it is unreasonable to expect adequate preparation for  
7 pretrial proceedings or for the trial itself prior to August 10, 2022.

8 f) Based on the above-stated findings, the ends of justice served by continuing the  
9 case as requested outweigh the interest of the public and the defendant in a trial within the  
10 original date prescribed by the Speedy Trial Act.

11 g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,  
12 et seq., within which trial must commence, the time period of March 23, 2022 to August 10,  
13 2022, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code  
14 T4] and 18 U.S.C. § 3161(h)(7)(A), B(ii) [Local Code T2], because it results from a continuance  
15 granted by the Court at defendant's request on the basis of the Court's finding that the ends of  
16 justice served by taking such action outweigh the best interest of the public and the defendant in  
17 a speedy trial.

18 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the  
19 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial  
20 must commence.

21 IT IS SO STIPULATED.

22  
23  
24 Dated: March 15, 2022

PHILLIP A. TALBERT  
United States Attorney

25  
26 /s/ JESSICA A. MASSEY  
JESSICA A. MASSEY  
27 Assistant United States Attorney  
28

1 Dated: March 15, 2022

/s/ per email authorization  
NICHOLAS REYES  
Counsel for Defendant  
MIGUEL ZUNIGA ARTEAGA

2  
3 Dated: March 15, 2022

/s/ per email authorization  
CAROLINE MCCREARY  
Counsel for Defendant  
ARMANDO MARTINEZ

4  
5  
6  
7 Dated: March 15, 2022

/s/ per email authorization  
RICHARD A. BESHWATE  
Counsel for Defendant  
MIGUEL ANGEL SANCHEZ-  
MEZA

8  
9  
10  
11 Dated: March 15, 2022

/s/ per email authorization  
MONICA BERMUDEZ  
Counsel for Defendant  
JUAN VIZUETT-RESENDIZ

12  
13  
14  
15 Dated: March 15, 2022

/s/ per email authorization  
HARRY DRANDELL  
Counsel for Defendant  
VINCENTE SALVADOR  
ARENAS-GARCIA

**ORDER**

IT IS SO ORDERED that the status conference is continued from March 23, 2022, to **August 10, 2022, at 1:00 p.m. before Magistrate Judge Barbara A. McAuliffe**. Time is excluded pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv).

IT IS SO ORDERED.

Dated: March 16, 2022

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE